

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2008
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 49-01-05, subsection 4 of section 49-22-22, and sections 49-22.1-21 and 57-43.2-19 of the North Dakota Century Code, relating to the salaries of the public service commissioners, the transfer and distribution of funds in the highway tax distribution fund, and siting process administrative fees; to provide a transfer; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the public service commission for the purpose of defraying the expenses of the public service commission, for the biennium beginning July 1, 2023, and ending June 30, 2025, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,991,488	\$930,538	\$10,922,026
Operating expenses	1,801,570	403,917	2,205,487
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	54,594	669,318
Specialized legal services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total all funds	\$19,772,782	\$1,489,049	\$21,261,831
Less estimated income	<u>13,347,095</u>	<u>377,026</u>	<u>13,724,121</u>
Total general fund	\$6,425,687	\$1,112,023	\$7,537,710
Full-time equivalent positions	43.00	2.00	45.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-NINTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the 2023-25 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
Real-time kinematic equipment	\$120,000	\$0
Indirect cost recovery shortfall	0	101,700
Drone	0	20,000
Weights and measures equipment	0	70,000
Copier replacement	<u>0</u>	<u>10,000</u>
Total all funds	\$120,000	\$201,700
Total other funds	<u>114,600</u>	<u>18,200</u>
Total general fund	\$5,400	\$183,500

The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget for the 2025-27 biennium. The public service commission shall report to the appropriations committees of the sixty-ninth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 3. 2021-23 BIENNIUM APPROPRIATION - TRANSFER - PUBLIC SERVICE COMMISSION PROGRAM FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$60,000, which the office of management and budget shall transfer to the public service commission program fund for the purpose of establishing a balance in the public service commission program fund, during the period beginning with the effective date of this Act, and ending June 30, 2023.

SECTION 4. BANK OF NORTH DAKOTA - LINE OF CREDIT. The Bank of North Dakota shall extend a line of credit to the public service commission to provide funding to pay costs associated with a rail rate complaint case. The line of credit may not exceed \$900,000, and the interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities. The public service commission shall repay the line of credit from amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case. If moneys available on June 30, 2025, are not sufficient to repay the line of credit, the public service commission shall request from the legislative assembly a deficiency appropriation to repay the line of credit.

SECTION 5. AMENDMENT. Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is one hundred ~~fifteen~~thirty thousand ~~three hundred four~~ dollars through June 30, ~~2022~~2024, and one hundred ~~seventeen~~thirty-five thousand ~~six~~two hundred ~~ten~~ dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

SECTION 6. AMENDMENT. Subsection 4 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4. Every applicant under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited in the public service commission program fund.

SECTION 7. AMENDMENT. Section 49-22.1-21 of the North Dakota Century Code is amended and reenacted as follows:

49-22.1-21. Siting process expense recovery - Deposit in special fund - Continuing appropriation.

1. Every applicant under this chapter shall pay to the commission an application fee:
 - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the facility.
 - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the facility.
 - c. An applicant for a waiver shall pay the amount that would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, the application fee paid must be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.
 - d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.

- e. An applicant requesting an amendment to a certificate or permit, or certifying to the commission under subsection 3 of section 49-22.1-01 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22.1-15, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
 - f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
 - g. ~~If an application fee is less than twenty-five thousand dollars, an~~An applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.
2. ~~At~~If an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, at the request of the commission and with the approval of the emergency commission, the applicant shall pay any additional fees as are reasonably necessary for completion of the gas or liquid energy conversion facility site, gas or liquid transmission facility corridor, or gas or liquid transmission facility route evaluation and designation process by the commission. The application fee under subsection 1 and any additional fees required of the applicant under this subsection may not exceed an amount equal to one thousand dollars for each one million dollars of investment in a proposed energy conversion facility or ten thousand dollars for each one million dollars of investment in a proposed gas or liquid transmission facility.
 3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
 4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited into the public service commission program fund.

SECTION 8. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30, 2025~~)

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)** All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

SECTION 9. EMERGENCY. Sections 3, 6, and 7 of this Act are declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2008 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 82 Nays 7 Absent 5

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State